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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,747

12/04/2003

Harry C. Deckler

Kinze 34

7203

7590

04/06/2005

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EXAMINER

BELLINGER, JASON R

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,747

Applicant(s)

DECKLER ET AL

Examiner

Jason R Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 10, 16 and 24 is/are rejected.
- 7) ☒ Claim(s) 4-8, 11-15 and 17-23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claims 1, 10, and 18-20 are objected to because of the following informalities: A colon (:) should be added at the end of line 1 of claim 1.

The phrase "characterized in that" should be removed from claims 10, and 18-20, due to the fact that this phrase contains no structure and does not further describe the invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3, 9, 16, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Brittain et al. Brittain et al shows a wheel 22 for an endless track having a hub including a mounting member (34 & 36) extending generally perpendicular to the axis of rotation of the hub, a contact surface (40 & 42) of uniform spacing from the axis of rotation, and first and second lateral mounting surfaces 46 in opposed relation. First and second pluralities of wheel segments 50 are mounted to the mounting member (34 & 36) to engage the first and second lateral mounting surfaces 46, respectively.

Each of the wheel segments 50 include at least one axially extending support element for supporting the track 28 (see Figure 4), and a first locator surface (namely an end portion that abuts portion of the hub which forms the groove 38) for contacting the contact surface (40 & 42) for locating the wheel segments 50 in the radial direction, and a second locator surface (namely the bottom surface of the segment) for contacting one of the lateral mounting surfaces 46 of the mounting member (34 & 36) to locate the wheel segments axially.

While Brittain et al does not specify that the wheel segments are produced by casting, a reference that shows a product that is identical to, or an obvious variant of, a product set forth in a product-by-process claim is considered to meet the product-by-process claim if the product can be produced by a different method. See also MPEP § 2113. In this case, the wheel segments could be produced by machining or powder metallurgy processes.

The mounting member (34 & 36) is formed as a disc with an annular outer section that defines the contact surface (40 & 42) and lateral mounting surfaces 46. The

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contact surface (40 & 42) is cylindrical, circumferential and centered on the axis of rotation of the hub. The lateral surfaces 46 are flat. Threaded fasteners 48 are provided for removably mounting the wheel segments 50 to the mounting member 46. The first and second pluralities of wheel segments 50 are mounted in side-by-side relation on opposing sides of the disc (34 & 36).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brittain et al. Brittain et al contains all of the limitations as set forth in paragraph 4 above, but does not specify that the surfaces of the contact surface and lateral mounting surfaces are machined. However, it is well known in the art that machined surfaces provide superior surfaces for mounting mating parts, preventing debris from getting between the mating parts, and ensuring proper alignment of the mating parts by removing burrs, etc. possibly caused when the mating parts are first produced. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to machine the contact and lateral surfaces, for the reason set forth above.

Allowable Subject Matter

7. Claims 4-8, 11-15, 17, and 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 18-20 would be allowable if rewritten to overcome the objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show multi-piece sprocket wheels for endless tracks. For example, Johnson shows a multi-piece sprocket wheel for an endless track.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger
Examiner
Art Unit 3617

JASON R. BELLINGER
PATENT EXAMINER
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4/24/05